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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/345,669	06/30/1999	RONALD K. MINEMIER	INTL-0227-US	1490

7590 01/26/2004

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EXAMINER
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WISDAHL, ERIC D

ART UNIT	PAPER NUMBER
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2615

DATE MAILED: 01/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/345,669

Applicant(s)

MINEMIER, RONALD K.

Examiner

Eric D Wisdahl

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments filed 31 December 2003 have been fully considered but they are not persuasive.

Applicant argues:

1. Kameyama fails to teach or suggest the determination of the number of defective elements by analyzing the data during the frame read out. Although Kameyama could do what the applicant's claimed invention is doing, it does not bother to do so.
2. Vincent is not seen to inherently disclose the determination of the number of defective elements by analyzing the data during the frame read out.
3. Argument based on Heller is the same as the argument above for Kameyama and would thus have the same reasoning above for its failure to meet the claimed limitations.
4. With regards to the rejection of Claim 15, applicant believes one of the examiners positions to be wrong and has stated "It is not up to the applicant to determine what the rejection should be. Since the rejections are inconsistent on their face, and admittedly so, at least one of them should be reconsidered."

Examiners Answers:

1. Kameyama teaches the determination of the number of defective elements by analyzing the data during the frame readout. Such an arrangement is seen in that

the determination of each of the number of defective pixels would be available after the complete frame was readout and analyzed. In other words, each of the number of pixels which are defective have been determined to be a defective pixel through the analysis of the frame readout and were subsequently stored in the appropriate place in memory.

2. Vincent is seen to inherently disclose the determination of the location of defective pixels through the full frame readout. Such a limitation is implied in Column 2 lines 54 – 56 which states “defect correction denotes the capability of an imaging system for generating a signal that *identifies the location of defective pixels* in an image”. Such a limitation of determining the location of defective pixels would inherently be done during a full frame readout as opposed to the memory readout that the applicant implied in Paper Number 3. Vincent was not seen to state or imply the inherent property of counting the number of defective pixels (as the applicant has implied), but was seen to state this feature in Column 8 line 24 – Column 12 line 24.
3. See argument above. Furthermore, See Heller Column 2 lines 18 – 36, which states “Currently, a certain number of defective pixels per sensor is tolerated so that a given amount of sensors are deemed usable and manufacturing costs are recovered. In these sensors, pixels that are found to be defective **do not exceed a predetermined number** for the entire sensor nor do they exceed a predetermined number within a predetermined area. Although locations of these pixels are discovered **during testing**, it is an administrative burden, as described above, to

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keep track of this information during manufacture. ..." (emphasis added). Such a statement is seen to fully anticipate the claimed limitations of reading out a frame of sensing element data from the array and determining the number of defective elements by analyzing the data during the frame read out.

4. As previously states, with regards to claim 15, Vincent was never used alone, under a 102 rejection to reject claim 15. It is believed that applicant was under the impression that this is the case. Vincent was used in combination with Kameyama to reject claim 15 so as to more clearly cover the limitations as put forth in the claim language. The office has not stated at any point that the rejections are inconsistent on their face. It has, however, brought to applicants attention that a single reference can and often will be interpreted in multiple ways and that separate rejections can and often will be presented under each of the possible interpretations.



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